

Summary of Property Restitution in  
Central and Eastern Europe  
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in Europe  
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Presented to the Commission by  
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Bulgaria

- Important communal properties remain under litigation.
- Agreed to restitution of Suborna Street property.
- Numerous other properties have been returned.

Private Property

Bulgaria was one of the first Eastern European countries to pass property restitution legislation. In contrast to other former communist countries, Bulgaria did not generally nationalize land, but instead nationalized businesses using the land, while owners retained title to the land. Current restitution law stipulates that both Bulgarian citizens and non-Bulgarian citizens are eligible to receive property confiscated during the fascist and communist periods. A successful claimant who is not a Bulgarian citizen, however, must sell the property. Only Bulgarian citizens can receive restituted forest and farmland.

Communal Property

NGOs and certain denominations claim that a number of communal properties confiscated under the communist government were not returned. For example, the Muslim community claims prior ownership of at least 17 properties. The Catholic Church claims six buildings in Sofia, three buildings in Plovdiv, several buildings in other towns, and three monasteries. In addition, the government reportedly retains properties of several Protestant groups.

Most property that belonged to the Bulgarian Jewish community has been restituted. One of the only remaining restitution issues is the case of the Rila Hotel in Sofia. The land on which the Rila Hotel was built in the 1960s belonged to the Jewish Consistory prior to the Holocaust. A 2001 Bulgarian court decision held that the Bulgarian Jewish organization "Shalom" is the successor to the Jewish Consistory. Currently the organization has regained just under half of the contested land. The Bulgarian government, which owns half of the Rila Hotel, privatized its share of the company that operates the hotel, further complicating the already difficult issue.

A long-standing Jewish property issue that was successfully resolved in 2002 is the property at 9 Suborna Street in Sofia. After negotiations between high-level government officials and Bulgarian and international Jewish groups, the Bulgarian government agreed to the restitution of the Suborna Street property to the Bulgarian Jewish organization "Shalom."

A central problem facing all claimants of communal property is the need to demonstrate that the organization seeking restitution is the organization (or its legitimate successor) that owned the property prior to September 9, 1944. This is difficult because communist hostility to religion led some groups to hide assets or ownership, and because documents have been destroyed or lost over the years.

### Croatia

- Pace of private property restitution remains slow.
- Communal properties remain unrestituted.

#### Private Property

Due to Croatia's turbulent past, there is a large amount of disputed property throughout the country. Croatia passed a property restitution law in 1990, and subsequently amended that law in 1991 and 1993. Implementation of the law has proceeded very slowly.

The 1996 "Law on Restitution/Compensation of Property Taken During the Time of the Yugoslav Communist Government"

prohibited non-Croatian citizens from making claims. But in a 1999 ruling on the law, the Constitutional Court struck down six clauses deemed to discriminate against foreigners. After a long delay, the Croatian parliament in July 2002 amended the law to extend to foreigners the right to claim nationalized property or receive compensation in accordance with existing bilateral agreements. The amended law pertains to the communist era only, and not to the 1941-45 period or to the civil unrest after the breakup of Yugoslavia. The law initially created a six-month period from July 2002 until January 2003 in which non-Croatian citizens were eligible to file claims. Croatia subsequently waived that deadline after determining that it does not have an appropriate bilateral agreement with the U.S. or any other country that would allow non-Croatian citizens to file claims.

A number of individuals of Croatian descent, who were not U.S. citizens when their claims against Croatia arose but have since become American citizens, currently have outstanding property claims. United States citizens also have claims arising from the early 1990s war following the break-up of Yugoslavia.

Two previous U.S.-Yugoslav settlement agreements compensated many claims by American citizens. The first agreement pertained to property expropriated between 1939 and 1948. The second agreement, entitled the "Agreement between the USG and SFRY Regarding Claims of US Nationals", became effective on January 20, 1965 and covered the years from 1948 to 1964. The claims process under these two agreements ended in the 1960s. To be able to claim compensation under current Croatian law American citizens must establish that they did not receive compensation under these two agreements.

Under current Croatian law, heirless property devolves to the state, rather than to the religious community of the former owner, as is the practice in some European countries.

The issuance of permits by local governments for construction on land with disputed titles complicates the restitution process.

#### Communal Property

The government has worked separately with the various religious communities to resolve communal property restitution issues. Usually agreements between the government and the individual communities govern the communal property restitution process. The government maintains that 19 percent of all communal property restitution claims have been resolved.

The government employs three methods to restitute communal property to religious communities: natural restitution (*in rem* restitution of the actual property that was taken), replacement restitution (transfer of like-kind property when the original property cannot be restituted), and monetary compensation.

In 1998, the government signed a concordat with the Vatican that provided for the return of all Catholic Church property confiscated by the communist regime after 1945. This agreement stipulates that the government would return seized properties or compensate the Church where return is impossible. Some returnable properties have been restituted, but there has been no compensation to date for non-returnable properties. In April, 2003, the Catholic Church specifically requested the restitution of 43 properties. As of September, none had been restituted. Of all the religious communities, the Catholic Church is the largest holder of property.

The Orthodox community filed hundreds of requests for the return of seized properties, but the community has received only ten percent of what it claimed. A recently signed agreement between the Orthodox community and the government established a commission to address property claims.

Jewish groups in Croatia have received some of their claimed property in Zagreb, but no properties have been returned to the Jewish community since March 2000. An estimated 20 additional Jewish property claims are still pending throughout the country. The Jewish community is in the process of negotiating an agreement with the government. The agreement will deal with property restitution, among other issues. The community identifies property return as one of its top priorities. The Jewish community comprises approximately 2000 members; more than half live in Zagreb.

The Muslim community of approximately 100,000 has not filed any claims. It is not clear whether the Baptist church has claimed any property.

### Czech Republic

- Rychetsky Commission resolved several issues including transfer of some 200 Jewish properties, return of 7,500 art works, and creation of a \$7.5 million Holocaust Fund.
- Catholic Church property claims remain outstanding, and no progress has been made in the past year. The Church is unwilling to submit a list of specific properties, and the government is unwilling to proceed without such a list.

### Private Property

The first restitution laws, enacted in 1991, covered confiscations during the period 1948-1989 and were primarily concerned with private property, farmland, artworks and property of religious orders and sports associations. A 1994 amendment (Act 116/1994) provided for the restitution of property taken by the Nazis from Holocaust victims between 1938 and 1945. The amended law still required that private property claimants be Czech citizens.

The citizenship requirement effectively disallowed property claims by Czechs who became American citizens, since a 1928 treaty between the United States and Czechoslovakia banned dual citizenship. The United States renounced the treaty in the 1990s, and in 1999 a new provision in Czech law ended the ban on dual citizenship for Czech-Americans, allowing Americans to reapply for Czech citizenship. By that time, however, the filing period for restitution claims had closed. It is unlikely that there will be any additional change in the restitution laws affecting Czech-Americans since much of the property claimed by Czech-Americans has already been restituted to other family members who remained Czech citizens. The Czech government maintains that 97% of all private property restitution claims have been resolved, but there is no way to verify this independently. Many American claimants

maintain that the Czech government has acted arbitrarily and unfairly in adjudicating their property claims.

Beginning in November 1998, a national commission headed by Deputy Prime Minister Rychetsky reviewed property restitution claims arising from the Holocaust. Following the commission's recommendations, Parliament in June 2000 enacted legislation that authorized the government to transfer approximately 200 additional properties to the Jewish community and allowed individual claims for formerly Jewish agricultural property. The law also restituted to the Jewish community 70 works of art housed in the National Gallery and provided for the return of an estimated 7,500 works of art in Czech government museums and galleries to Holocaust victims and their heirs. Unlike previous Czech restitution laws, the claimants of looted art held by state institutions are not subject to a citizenship requirement. The Czech government has created an internet site with information and photographs of the works. In 2002, Parliament extended the deadline for filing artwork claims from the end of 2002 to the end of 2006.

In 2001, the Rychetsky Commission also helped to establish a Holocaust fund of approximately \$7.5 million. A third of the fund will be dedicated to providing compensation to non-citizens and others previously unable to regain real property seized by the Nazis. The rest of the fund will be dedicated to the restoration of Jewish sacred sites and to Jewish community life in the Czech Republic. In September 2000, the Chamber of Deputies of the Parliament of the Czech Republic approved the transfer of state money to the Endowment Fund for Victims of the Holocaust (EFVH) to mitigate property injustices which occurred during the Nazi occupation.

### Communal Property

Progress in resolving outstanding communal property restitution claims by churches remains slow, partially because of the difficulty of verifying the title of hundreds of claimed properties. The Social Democratic government in 1998 created two national commissions to address church-state related issues and to develop legislation on the return of income-generating property claimed by the Catholic Church and other property claimed by Protestant churches. The Commissions have not yet issued their reports. The Catholic Church seeks around 700

buildings and 175,000 hectares of land; local authorities hold most of this property. As of August 2003 these claims remain unresolved due in part to the reluctance of the Catholic Church to provide a list of the properties to which it is still entitled, and the government's refusal to continue the process until it has a clearer picture of what properties are under review.

The Czech Republic's decentralized property restitution system does not require municipalities to return communal property in accordance with national policies. Thus the Jewish community has received most of the communal property once held by the Czech national government and the city of Prague, but properties held by local authorities remain unrestituted.

### **Estonia**

- **Private property claims resolved.**
- **Communal property returned.**

The restitution of property in Estonia has been completed in an exemplary manner and there are no pending property claims or disputes. Estonia has returned communal property to religious communities. Private property owners who filed their claims before the appropriate deadline have also been able to reclaim their property, irrespective of present citizenship. Title to heirless property passes to the local municipal administration of the area in which the property is located. The administration is free to sell the property or retain it for its own use.

### **Hungary**

- **Private and communal property laws being implemented.**
- **No law governing heirless property.**

#### Communal Property

Hungary's restitution process began in 1991 with the enactment of a law enabling religious organizations to apply for compensation for real estate nationalized after January 1, 1946. Twelve major religious groups submitted 8026 property restitution claims; 1383 claimants received

property, 2670 claims were denied, 1731 claimants received cash payments (totaling \$271.3 million or HUF 67.843 billion) and 968 cases were settled without government intervention. As of December 31, 2001, there were 1274 claims, valued at \$187 million (HUF 46.770 billion), awaiting adjudication. The final adjudication deadline is in 2011.

In 1997, the Hungarian property restitution law was amended to allow religious groups to apply for a government-funded annuity as compensation for unrestituted properties. Between 1997 and 1998, the Hungarian government signed compensation agreements with several religious organizations (Catholic, Jewish, Protestant and Orthodox) in order to implement fully the 1991 law and the 1997 amendment. The compensation agreements determined the monetary value of unrestituted properties and specified the amount of the government-funded annuity to be given to each organization. The specific amounts are in the chart below.

Organization	Amount of Annuity		Properties Waived	Value of Waived Properties	
	US \$	Hungarian HUF		US \$	Hungarian HUF
Catholic Church	9.2 million	2.3 billion	1150	168 million	42 billion
Jewish Community	2.4 million	608 million	152	54 million	13.5 billion
Calvinist Church	5.2 million	1.3 billion	392	26.6 million	6.65 billion
Lutheran Church	2.8 million	700 million	74	17 million	4.27 billion
Budai Serb Orthodox Church	179,000	44.9 million	2	3.4 million	848 million
Hungarian Baptist Church	80,000	20 million	2	484,000	121 million



In early 2003, the Hungarian government concluded an agreement with the Jewish community to provide compensation payments of about \$1,750 to Hungarian survivors of the Holocaust, or their heirs. The number of beneficiaries is expected to be around 150,000. The agreement could close a nearly decade-long dispute between the local Jewish community and the Government of Hungary over the level of compensation to Holocaust survivors.

#### Private Property

The 1991 law also allowed for partial compensation for private property. Successful claimants could receive a voucher for up to \$21,000 as compensation for their confiscated property. The vouchers, issued in lieu of cash payments, could be used to buy shares in privatized companies or to buy land at state land auctions. According to government statistics there were 1,431,740 claims, of which 1,263,033 were approved for payment; 168,666 claims were denied. Payments in vouchers totaled HUF 81.02 billion. In addition, there were payments of HUF 3.77 billion for the purchase of agricultural land. Many claimants maintain that adjudicators delayed decisions and made arbitrary rulings on claims.

Under the current law, heirless properties devolve to the state, rather than to the deceased's community. Data privacy laws and limited access to archival resources hinder the research necessary to document claims. The deadlines for filing claims for both private and communal property are now passed.

### **Latvia**

- Both private and communal property restitution nearing completion.

#### Private Property

Latvian law provides for the restitution of confiscated property, both private and communal, to former owners or heirs. The law does not discriminate on the basis of citizenship or residency. In most cases, municipal authorities make the final decision on property restitution; if they deem a property non-returnable, they

may offer alternative property or compensation in the form of vouchers. Claimants, however, may be reluctant to accept alternative property because of the difficulty in establishing comparative values. Claims for private property occupied by economically productive facilities have been particularly difficult to resolve.

### Communal Property

The Government of Latvia is prepared to restitute Jewish property to both the observant and non-observant Jewish communities. The current arrangement within the Jewish community provides for the return of communal religious properties to the observant community (about 136 people), but not to the significantly larger non-observant community. Thus the observant Jewish community has received 16 religious properties and compensation for two others. Approximately 200 communal properties remain to be restituted to the non-observant community. In the late summer of 2002, the leaders of the observant and non-observant communities reached a cooperation agreement, which could end the impasse within the Jewish communities and lead to the restitution of additional communal property to the non-observant community. The agreement is currently pending approval by the boards of both Jewish communities.

With this notable exception, most Jewish and Christian property cases have been resolved and the restitution process is nearing completion.

## **Lithuania**

- **Lack of alternative property delays private property restitution.**
- **Government developing communal property law.**

### Private Property

The Lithuanian government has restituted to private claimants most of the property that can be returned. Resolution of the remaining private property claims will require the identification of alternative property or the payment of compensation, estimated at approximately \$500 million. The established deadline for paying compensation for land, forest, and bodies of water is 2009, and 2011 for houses and apartments.

Under the current program the Lithuanian Finance Ministry may pay compensation only to Lithuanian citizens, but citizens qualify regardless of their place of domicile. The deadline to submit applications for property restitution was December 2001, the deadline to prove kinship to the original owner was December 31, 2002. During the application period, from 1991 through 2001, the Lithuanian government received approximately 9,500 claims for private houses and over 57,000 applications for the return of land. In March 2002, the Parliament amended the restitution law to provide that restitutable land not being used for public purposes and located in urban areas must be returned to its former owners.

On October 2, 2002 the Cabinet decided to compensate owners of nationalized property with shares in large state-owned energy, telecom, and shipping companies. The total value of the shares is some \$19 million. Currently, more than 12,000 owners claim some \$10 million, and this figure is expected to exceed \$100 million as more owners claim compensation rather than request the return of their property in kind.

#### Communal Property

From 1991 to 1996, the observant and non-observant Jewish communities claimed and received a total of 28 buildings, mostly synagogues (three in Vilnius, five in Kaunas and the balance in small towns). A 1995 law permits only the observant part of a religious group (as opposed to the non-observant) to apply for the restitution of communal property. The practical effect of this has been that only the orthodox Jewish community, comprising five percent of Lithuania's current Jewish population of approximately 4,000, is able to apply for property owned and used by Lithuania's pre-war Jewish population of over 200,000. Since the passage of the law, the non-observant community has not been able to obtain additional property, whereas the observant community has received a number of properties.

In June 2002, a government commission, comprised of cabinet ministers, commenced a review of Jewish communal property issues. Lithuanian and international Jewish groups are currently developing a list of unrestituted Jewish communal properties throughout the country. These

Jewish organizations plan to form a foundation to assist in managing restituted property and in aiding Jewish citizens in pursuing claims.

In September 2002, the government drafted amendments to the existing property restitution law. The amendments would change the 1995 law to broaden the definition of communal property and to establish a fund to pay compensation for property on which buildings no longer exist. The amendments would not change the restriction on the restitution of land, water bodies, forests and parks to religious communities. Parliament will consider the amendments after the Jewish community submits to the government its list of property claims. As of September 1, the Jewish Community has not completed its list of restitutable property.

Restoration of Jewish Quarter: on September 18, 2002, the Lithuanian government approved a plan to restore parts of the historical Jewish quarter in Vilnius. The project will include the restoration of commercial buildings, such as service offices and workshops, Jewish hotels and residential buildings. The government's plan also includes the possibility of the rebuilding of the Vilnius synagogue. Although no final cost estimate has been completed, the Vilnius municipality has agreed to cover the costs of the first stage of the project, while Lithuanian and international groups and the Lithuanian Jewish Cultural Heritage Foundation have agreed to sponsor the remaining two stages. The restoration is scheduled for completion in 2008.

### **Macedonia**

- Almost all property used for religious purposes has been restituted.
- A 2002 restitution program established a fund to compensate for heirless property and to restitute communal property.

### Private Property

Preoccupied with the Kosovo crisis and the 2001 insurgency, the Macedonian government did not have the political will or resources to implement fully its 1998 property restitution law until the latter half of 2002. The law provides for the issuance of bonds as compensation.

The bonds have declined to about 50 percent of face value. The appraisal system used to determine valuations results in payments equal to about half of the market value. In urban areas, only state-owned land can be returned, and then only if the property is vacant.

As of June 2002, claimants had submitted 4540 restitution requests; 3359 (74 percent) had been resolved; 2068 (61.5 percent) were granted, one-fifth of which resulted in physical restitution; 12.5 percent were denied; payments in bonds amounted to approximately \$5 million.

### Heirless Property

In May 2000, the Macedonian Parliament passed a law mandating that heirless property of Jewish Holocaust victims be given to a special-purpose fund for the construction of a Holocaust memorial museum. The government established a four-person steering committee, comprised of two government and two Jewish community representatives, for the project. The steering committee began its work in 2002 identifying some heirless properties eligible for this program.

### Communal Property

Following more than six years of talks, pursuant to the 2000 law the Macedonian government signed a restitution agreement with the Jewish community in August 2002. The agreement returns to the Jewish community three buildings in Bitola and one piece of real estate in Skopje. The agreement also provides the Macedonian Jewish community with bonds, valued at 176 million denars (\$2.7 million), to be issued over a period of ten years. Finally, the agreement provides 29 million denars (\$461,000) for the Holocaust Fund, established to administer heirless property. A six-member board (three government officials and three from the Jewish community) manages the fund, which will receive heirless property. The Fund will create a regional Holocaust Museum Education Centre, finance the repair, restoration, and upkeep of Jewish heritage sites and fund additional education and tolerance programs.

A major success of Macedonia's restitution program is the return of virtually all churches and mosques to the appropriate religious community, although most non-religious properties have yet to be adjudicated. Claims

for unrestituted properties are complicated by the fact that the seized properties have changed hands many times and have been developed since the time of their seizure. Due to limited government resources, it is unlikely that the religious communities will regain these additional claimed properties.

### Poland

- Government has not yet drafted private property legislation.
- Communal property restitution well advanced, but slowing.

#### Private Property

There is no legislation governing the restitution of private property in Poland. Parliament has made several attempts to enact such legislation and did pass a law in early 2001, but President Kwasniewski vetoed it because of its budgetary implications. The legislation imposed a citizenship requirement that would have made most American citizens ineligible to from file a claim. In 2002, Prime Minister Miller assured American Jewish leaders that the government was preparing draft legislation for submission to the Parliament in 2003, presumably without citizenship restrictions, but that now appears unlikely. Some claimants for the restitution of private properties have successfully acquired their property in Polish courts.

In June 2002, a U.S. federal district court judge ruled in Garb v. Poland that the Government of Poland had immunity under the Foreign Sovereign Immunity Act for suits to recover property seized by the communist Polish government following World War II. The U.S. government filed a brief and appeared at oral argument in the Second Circuit Court of Appeals to support Poland's claim of sovereign immunity. In July 2003, the Second Circuit Court of Appeals asked the two parties to submit additional information to the court. As of early September 2003 it was not clear what the next step in this case would be.

#### Communal Property

During the 1990's, Poland passed legislation to provide for the restitution of property held before the war

by Poland's major religious organizations. The legislation established five separate commissions, comprised of representatives of the government and the affected communities, to process the restitution claims. The Catholic Church acquired approximately 2000 properties, the Lutheran Church 210 and the Orthodox Church eight. In some instances, the churches received compensation instead of the actual property. The following table provides details of the current status of communal property claims:

Religious Organization	Claims	Resolved	(Amicable Settlements)	(Denied)
Catholic	3,054	2,780	1325	532
Orthodox	120	57	49	4
Lutheran	1,200	709	233	370
Jewish	5,236	414	153	159
Other	110	10	0	10
TOTAL	9,720	3,960	1,760	1,075

The Orthodox figures are as of May 2002. Others are as of June 1, 2002. "Other" includes Baptist, Pentecostal, Methodist, Muslim and smaller groups.

As of June 2003, the commission had ordered the return of 898 Catholic properties, four Orthodox properties, 93 Lutheran properties and 190 Jewish properties (including 27 substitute properties.)

The Orthodox Church, Poland's second largest denomination with over a half-million adherents, filed a low number of claims because of a short (three months) filing period. By comparison, the Catholic Church had two years and the Jewish community five years. The Parliament and the government are reviewing the possibility of reopening the filing period for the Orthodox Church.

Processing of Jewish claims remains active. Thousands of Jewish communal properties served Poland's 3.5 million Jews before the Holocaust. The law governing the restitution of Jewish communal property went into effect in May 1997 and provided a May 2002 deadline for restitution applications. Because of the large number of properties and the small size of the current Polish Jewish community, the community sought the assistance of the World Jewish Restitution Organization (WJRO). A joint foundation between the Polish Jewish community and the WJRO was

established in late 2001. The joint foundation, known as the Foundation for the Preservation of Jewish Heritage in Poland (FPJHP), was registered in early 2002. The founding agreement provided that the Polish Jewish community would file claims in certain geographic areas, and the FPJHP would do so in areas not reserved for the Polish community. The Polish community filed nearly 2000 applications by the deadline, and the FPJHP filed nearly 3,500 claims.

Many of the properties to be restituted are "heritage properties," primarily cemeteries. The maintenance of these properties represents a potential cost of considerable magnitude. The Foundation and the community may sell properties not needed by the community in order to meet these expenses.

Since early 2003, there has been a noticeable slowdown in the processing of Jewish communal claims.

#### Romania

- Implementation of Laws 10/2001 (private property) continues at a slow pace.
- Implementation of Law 501/2002 (religious property) began late, and is proceeding slowly.
- Greek Catholic Church claims remain unresolved.

#### Private Property

Romania was the latest of the former communist countries to pass formal property restitution legislation. For the first decade following the fall of the Ceausescu regime, a series of court decisions, laws and decrees governed the return of property seized during World War II and under communist rule. These decisions, laws and decrees were frequently contradictory and led to considerable confusion.

In February 2001, Romania enacted Law 10 to govern private property restitution for properties confiscated between 1945-1989. While this law provides a systematic approach to private property restitution, it is complex and places a considerable burden on claimants. Initially, the



law provided an application period of just six months. There was no notification program outside of Romania, so potential claimants had no way of learning about the possibility of filing applications.

At the suggestion of the United States, the Romanian government extended the deadline, first to November 2001 and then to February 14, 2002. But the overseas notification program was not implemented until late 2001, making it difficult for claimants to meet the application deadline. Law 10 does not allow for the restitution of agricultural or forested properties, which were covered by laws 18/1991 and 1/2000, and whose deadlines have expired. Law 10 does not cover the restitution of properties belonging to religious communities or minority groups. Article 16 of Law 10/2001 stipulates that properties used for public purposes will not be restituted in kind and former owners will receive monetary compensation. The government estimated that about 5,000 buildings would not be restituted in kind.

Law 10 required that applicants submit claims to municipal authorities through a court having jurisdiction over the property in question. This made it difficult for applicants who left Romania at an early age or for heirs to know where to submit applications. Despite these difficulties, 210,000 claims were filed; of these, 128,000 claimants requested restitution in kind and 82,000 requested financial compensation or other reparation measures. Only 38,400 were completely documented. A recent Romanian government report indicated that approximately 9,200 properties had been returned by the end of August 2003.

The deadline for documenting claims was extended from February 14 to July 1, 2003. In May 2003, the government published reformulated implementing regulations. The late publication gave applicants little time to comply prior to the July 1 deadline. These regulations provide that individuals who "sold" their property to the communist-era government in order to emigrate would not be compensated. Claimants also had to submit official documentation showing that they did not receive any compensation under prior claims agreements (such as the 1955 and 1963 U.S.-Romania Claims agreements.)

Government emergency ordinance 10/2003 (passed into law by Parliament in June) provides that documents that were not submitted by July 1 cannot be used by former owners or their families in subsequent lawsuits.

Processing of claims has been very slow. How long it will take to adjudicate claims, and how transparent that process will be, is not clear.

Over the past several years, the European Court of Human Rights has ruled on over 25 Romanian property restitution cases in favor of the former owners, ordering the Romanian state to pay sizeable damages unless the buildings in question were returned.

### Religious and Communal Property

In late June 2002, Parliament approved Law 501/2002 governing the restitution of religious property. The law covers buildings (such as schools and hospitals, not houses of worship themselves) that belonged to the religious denominations and were confiscated by the state between March 6, 1945 and December 22, 1989. It does not cover the period between 1940 and 1945, when large numbers of Jewish properties were seized, nor does it cover the restitution of Greek Catholic churches confiscated by the former communist regime. It also refers only to buildings that still exist and does not provide compensation for buildings that were demolished. Implementation regulations were promulgated in November 2002. The law replaces one of the five government acts (four emergency ordinances and a decision) adopted between 1997 and 2000 and restituting buildings to religious and national minorities.

Under Law 501/2002, religious denominations had requested restitution of 7,568 properties by the March 2, 2003 deadline, as follows:

Orthodox Church	770
Roman-Catholic Church	992
Greek Catholic Church	2,207
Reformed Church	899
Jewish faith	1,809
Evangelical Church	690
Other denominations	201

In two June 2003 meetings, the National Commission for the Restitution of Religious Property decided to return 70 properties to the following religious organizations:

Greek Catholic Church	4
Armenian Church	2
Roman-Catholic Church	4 (German-speaking)
Evangelical Church	3 (Augustinian)
Orthodox Church	11
Jewish congregations	3
Hungarian Churches	43 (Catholic, Reformed Evangelical)

A foundation established by the Federation of Jewish Communities in Romania and the World Jewish Restitution Organization to follow restitution issues has received approximately 40 properties, restituted by the four government acts passed between 1997 and 2000. The Jewish community was able to take actual possession of only 28 of them. Documenting ownership has been difficult for the foundation because of the lack of access to archives. The Jewish community so far has received only three of the 1,809 properties claimed under Law 501/2002. In addition, under Laws 18/1991 and 1/2000, the Jewish community received 17 pieces of land in Iasi (sites of former synagogues and schools).

The same four government acts returned 33 buildings to the historical Hungarian churches. The Hungarian churches were able to take full or at least partial possession of only 20 of those properties. Under Law 501/2002, the Hungarian churches so far have received 43 of the 1,450 reclaimed buildings.

Finding new premises for current occupants has slowed the restitution of private, religious and communal property in Romania.

The Greek Catholic Church was able to obtain only 146 of the over 2,600 churches and monasteries confiscated by the communists and handed over to the Orthodox Church. Under Law 501/2002, the Greek Catholic church received back only four of the 2,207 reclaimed buildings.

A draft law on property restitution to ethnic communities is currently being debated in Parliament. The

draft law covers properties seized by the communists regime from entities representing national minorities.

Romanian law does not provide compensation for claimants of communal property if that property cannot be returned in kind.

### Russia

- 4000 communal property buildings returned.

#### Communal Property

Despite considerable progress in this area since 1991, a number of religious communities remain concerned about unrestituted religious property confiscated during the Soviet era. According to the Presidential Administration, the Russian government's Restitution Commission returned approximately 4,000 buildings between the time the decree on communal property restitution went into effect in 1993 and March 15, 2001 when Prime Minister Kasyanov ordered the commission to cease its activities.

Approximately 3,500 of the restituted buildings were returned to the Russian Orthodox Church. Smaller numbers of buildings and houses of worship were returned to non-Orthodox Christian, Jewish, and Muslim communities. One example of the latter is the synagogue in Omsk, the largest in Siberia, which was rededicated in May 1996. In June 2003, the city of Oryol approved the restitution of a synagogue in that city. For several years, the local Jewish community had petitioned for the return of the building. Even with these modest successes, the Jewish community faces the same obstacles as other religious communities in obtaining the restitution of properties seized during the communist era. Some Jewish communities assert that they have recovered only a small portion of the total properties confiscated under Soviet rule, and are seeking additional restitution.

The Russian government has returned approximately 15,000 religious articles, including icons, Torahs and other items, to religious groups. For example, in May 2000, the government turned over 61 Torah scrolls to the Jewish community. However, many other religious artifacts remain in state museum collections.

## Serbia and Montenegro

- Private property restitution has not begun pending passage of necessary laws.
- Communal property restitution also awaits legislation.

### Private Property

Due to the breakup of Yugoslavia and the military conflicts of the 1990s, Serbia has yet to pass a property restitution law. The democratic coalition that gained power in Serbia after the ouster of Slobodan Milosevic in October 2000 promised to return or compensate for property nationalized during the communist era. Several drafts of restitution legislation have been proposed, but none has come before parliament for a vote. Legal systems and enforcement are separate in the two republics; claims are addressed at the republic level.

Individuals of Yugoslav descent, who were not U.S. citizens when their claims arose but have since become American citizens, have outstanding property claims. Embassy Belgrade is aware of 19 such claims in Serbia and four in Montenegro. Many American claims for Yugoslav property were compensated under two previous settlement agreements between the United States and Yugoslavia. The first agreement pertained to property expropriated between 1939 and 1948. The second agreement, entitled the "Agreement between the USG and SFRY Regarding Claims of US Nationals", became effective on January 20, 1965 and covered the years from 1948 to 1964. The claims process under these two agreements ended in the 1960s. Under these agreements, SFRY paid a total of \$20.5 million. The old agreements do not hold Yugoslavia or its successor states harmless from claims of all current American citizens. The agreements only applied and provided access to settlement to those who were American citizens at the time their property was taken and prior to 1964.

In Montenegro, all agricultural land and most other undeveloped land that was not controversial has been returned. Montenegro passed a restitution law in June 2002, but the Constitutional Court declared 13 articles unconstitutional, making the law impossible to implement. Montenegro is preparing a new restitution law, which should

be passed by the end of 2003. The basic restitution policy in Montenegro is restitution in kind when possible, with cash compensation or substitution of other state land when physical return is not possible. The new draft law envisions a set claims period, after which no further claims will be possible.

A draft Serbian denationalization law is undergoing inter-ministerial review, after which it will be released for public comment. The government has stated that it expects to have a law passed by the end of 2003. The draft law provides for equal treatment of domestic and foreign citizens. The draft excepts only those foreign citizens who were compensated, or eligible for compensation, under any of 29 bilateral claims agreements.

Property claimants frustrated with the failure of the government to put a legal framework for restitution in place, including several U.S. citizens, formed an NGO - the League for the Protection of Private Property and Human Rights - to press for restitution. In June 2003, the group was successful in placing its own draft law before the Serbian parliament by using a provision in the Serbian constitution that permits citizens to introduce legislation by collecting 15,000 petition signatures in seven days. In what appeared to be an attempt to intimidate the group and prevent its success, the police raided and closed the group's office during the petition drive.

A major difference between the Serbian government and claimants on a restitution law is the form of compensation. Claimants are seeking as much *in rem*, or physical return of actual properties, as possible. The Serbian government position is that the fair solution is monetary compensation, unless the property of all claimants of a certain type of property (housing, land, commercial) could be physically returned.

Several U.S. (dual) citizens have claims on commercial properties involved in the privatization process. In the absence of a restitution law, Embassy Belgrade has intervened with host country authorities on several occasions to request deferral of planned sales of claimed property. Claimants have accused the government of delaying a restitution law until claimed assets have been sold. Serbian officials have expressed concern that restitution would significantly delay completion of

privatization. The Serbian privatization law provides that 5% of all privatization revenues go to a denationalization compensation fund. The Embassy has raised restitution repeatedly with officials at the municipal, republic and state union levels, urging authorities to move ahead with a fair restitution law. Several EU member state embassies have also become engaged on behalf of their citizens.

Heirless property reverts to the state.

### Communal Property

In post-WWII Yugoslavia, religious communities were limited to possessing 10 hectares of land or 30 hectares of religious sites of cultural importance. There is no law providing for communal or church property restitution in either Serbia or Montenegro. In Montenegro, such property will be covered by the new restitution law now under preparation, with communities given the same rights as individual claimants.

The Serbian Ministry of Religion has prepared a draft law on restitution of church property. The Christian Democratic Party of Serbia has also submitted a draft law to the Serbian parliament on return of church and religious community property. Neither law has received approval by the government or parliament.

The Christian Democrat draft law envisions return of church and monastery property as well as land and residential and commercial properties owned by religious communities. The draft law provides that only the state and legal entities (companies), but not individuals, would be required to reconstitute communal property. According to the proposal, if physical return is not possible the government would be required to provide compensation in the form of equity in the state share fund or government securities. The lack of state budget resources to fund compensation is one factor delaying a law. With the exception of the Igumanova Palace, which was returned to the Serbian Orthodox Church by Milosevic as a goodwill gesture, no church properties have been restituted in Serbia.

## Slovakia

- Majority of religious property returned.
- Government and Jewish community agreed in 2002 on restitution package for heirless property.

### Communal Property

Slovakia took over the laws passed by Czechoslovakia in 1990 and 1991 for the restitution of Jewish and non-Jewish properties confiscated by the communist regime. A 1993 law covered communal religious property, so that both private and communal property became eligible for restitution. The implementation of these laws led to the restitution of a majority of eligible property throughout Slovakia, with a few important exceptions.

The Orthodox Church received six of its seven claimed properties. The Catholic Church received about 60% of its claimed properties, the remaining claims were denied since the properties were undeveloped at the time of their confiscation but have since been developed. The major obstacles facing Slovakia's outstanding restitution claims are the government's lack of financial resources to pay compensation, current tenants occupying restituted property and bureaucratic resistance to specific claims.

### Heirless Property

In April 2000, the government and the Slovak Jewish community established a Joint Commission to discuss heirless property, among other restitution issues. The commission consisted of Slovak government representatives and ten Jewish representatives: seven from the Slovak Jewish community, including the Union of Jewish Religious Communities in the Slovak Republic (UZZNO), two representing the American Jewish Committee (AJC) and B'nai B'rith International, and one representing the World Jewish Congress and the World Jewish Restitution Organization.

Following an agreement reached in the inaugural meeting, experts reported that heirless Jewish movable property and real estate, excluding agricultural lands, was valued at approximately 8.5 billion Slovak Crowns (\$185 million). The Slovak Jewish community agreed to accept ten percent of this amount, equal to 850 million Slovak crowns (\$18.5 million), as payment for the unrestituted property.



In September 2002, the Cabinet agreed to this proposal. Final negotiations between the government and UZZNO concluded in July 2003. The entire amount has been deposited at the Slovak National Bank. One-third of it was made available immediately due to the advancing age of Holocaust survivors. The Jewish community will draw interest on the account for 10 years before receiving the remaining principal. The community intends to use the funds for compensation to some community members as well as to fund social, educational, and cultural programs.

### Monetary Compensation Issues

In 1998, UZZNO won a ruling for the reimbursement to the Slovak Jewish community of the Slovak Jewish deposit, the forced deposit of Slovak Jewish money and gold into the national bank in 1940. The deposit (\$600,000) is being used for a retirement home in Bratislava and a day care center in Kosice, both of which serve Holocaust survivors.

### **Slovenia**

- 19% of private property claims remain unresolved.
- Bulk of communal property returned.

### Private Property

Slovenia passed and began implementing a law on the restitution of property (the Denationalization Act) in 1991, soon after independence. As of the end of 2002 (the latest information provided by the government), the government had completed processing 30,914 cases (81%) of the 38,126 property restitution claims filed. U.S. citizens filed 482 cases. The Government of Slovenia reports that 276 cases (57%) filed by U.S. citizens had been completed, by the end of 2002. The government expects to complete the processing of all claims by mid-2004.

Unresolved cases include those in which the courts have not reached a final decision and those pending appeal. Court backlogs, a lack of trained judicial and administrative personnel, amendments to the

Denationalization Act, and inadequate records of land ownership have slowed the processing of claims. Claimants have complained of a general lack of transparency and procedures that are inconsistent with the law. Heirless property currently devolves to the state. Almost all private property claims by Jews are resolved. Remaining to be adjudicated are claims by private Slovene citizens and claims by non-citizens.

### Communal Property

Under current regulations, communal property claims are treated in the same manner, with the same rights to appeal and compensation. The unresolved communal property claims of the Catholic Church are currently being litigated in the Slovenian courts. In July 2001, the Ministry of Agriculture returned over 8,000 hectares of land in the Triglav forest to the Catholic Church. The Ljubljana Administrative Court annulled this decree in May 2002, ruling that roads built on the land were public goods and therefore not restitutable. Following the annulment, the Minister of Agriculture stated that he still expects to return to the Church all but about one percent of the land in question.

The Jewish community in Slovenia has never been very numerous and remains small today, numbering around 150. The limited population led to only a small number of Jewish private and communal property restitution claims. Restitution of Jewish communal property in Slovenia has been completed. In the summer 2003, the president of the Slovene Jewish Community reported having participated in productive meetings with Slovene government representatives in which they explored ways of dealing with heirless property of Holocaust victims. This property could provide a source of income for the Jewish community.

## Ukraine

- The majority of places of worship have been restituted.
- Ukraine has no legislation governing the restitution of private property.

### Private Property

Ukraine has no laws or decrees governing the restitution of private property, nor has the government made any proposals in this regard.

### Communal Property

Ukraine has no state religion, although the Ukrainian Orthodox Church and the Ukrainian Greek Catholic Church predominate in the east and the west, respectively. These churches can exert significant political influence at both the local and regional levels and many smaller religious groups allege governmental discrimination in favor of these churches with regard to restitution issues.

Registered religious organizations are the only entities permitted to seek restitution of property confiscated by the Soviet regime, and these organizations are limited to receiving only those buildings and objects necessary for religious worship. A 1992 decree commenced Ukraine's restitution program for religious buildings. In May 2001 three amendments were offered to the "Law of Religion and Freedoms of Conscience". The amendments would change the registration procedures, codify presidential decrees on property restitution and expand the types of religious property eligible for restitution to include religious schools and administrative buildings. The Rada (Parliament) did not pass the amendments in 2001. The Cabinet has revised and resubmitted the amendments, but the Rada has not yet acted on them.

In September 2002, the Cabinet approved an action plan designed to return religious buildings to the religious organizations that formerly owned them. A working group has responsibility for settling issues pertaining to the use of certain religious properties. The authorities are considering the return of several additional properties to church organizations.

According to the State Committee for Religious Affairs (SCRA), during 2002 the government transferred ownership of 187 buildings that were originally constructed as places of worship to religious communities, for a total of 8776 since independence in 1991. In addition, during 2002, religious communities received ownership of 358 premises that were then converted into places of worship and another 524 religious buildings that were not designated for worship (schools, hospitals, etc.) More than 10,000 religious objects have also been returned to religious communities. Statistics for the first half of 2003 are not yet available.

Intra-communal competition for particular properties complicated the restitution issue for both Christian and Jewish communities. The slow pace of restitution is also a reflection of the country's difficult economic situation, which severely limits funds available for the relocation of the occupants of seized religious property. Although the program has made progress, restitution is not complete, and all of the major religions have outstanding claims. Many are for properties identified as historical landmarks or are occupied buildings. Relocation of current residents of claimed property is prohibitively expensive.

Various religious groups throughout the country have cited discrimination and deliberate delays in the restitution process at the local level. For example, the Kiev Patriarchate of the Orthodox Church and the Greek Catholic Church have complained of harassment by local authorities in the predominantly Russian-speaking eastern region, while the Moscow Patriarchate of the Orthodox Church complained that local governments ignored the appropriation of its churches by Greek Catholics in the western region. In addition to the disagreement among the Orthodox churches, the Roman Catholic Church has unrealized restitution claims in various cities including Kiev and has claimed that local authorities have blocked a land claim in Chernihiv. Jewish community representatives report that some progress has been made, although, restitution is proceeding slowly. Additionally, different Jewish groups have laid competing claims to the same property.

The US Embassy in Kiev actively monitors restitution of religious property, and regularly meets with representatives of Ukraine's religious communities in Kiev. These representatives also frequently visit Washington.

